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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C., UNITED STATES OF AMERICA

In re Application of:

Application No.	:	10/672,428	Confirmation No.	:	8422
Applicant(s)	:	Stanley L. FRY			
Filing Date	:	26 September 2003			
Entitled	:	SELF-LOCKING STACKABLE TAPERED CONTAINER WITH PARTIAL TOP STRUCTURE			
Group Art Unit	:	3727			
Examiner	:	Gary E. ELKINS			
Docket No.	:	023470			
Customer No.	:	01726			

VIA FACSIMILE 571.273.8300
NO CONFIRMATION FOLLOWSCommissioner for Patents
U.S. Patent and Trademark Office
Post Office Box 1450
Alexandria, Virginia 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

Applicant respectfully submits this response to the Restriction Requirement mailed on 03 November 2005. Reconsideration thereof is respectfully requested.

Applicant respectfully submits herewith a Petition for a one month extension of time under 37 C.F.R. 1.136(a) in which to file the within response.

Applicant provisionally elects, with traverse, to prosecute the species alleged as Group II, (shown in Figure 2). Claims 11-18, 39 and 40 read on this Group.

Additionally, Applicant respectfully submits that the species alleged as Group III (shown in Figure 3), Group IV (shown in Figures 4 and 7) and Group VI (shown in Figure 6) are properly examinable with the species of Group I. Claims 11-18, 39 and 40 are generic to the inventions of Groups II, III, IV and VI.

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It is also respectfully submitted that the Office has not met its burden of showing distinct and unrelated inventions, as set forth in MPEP 808.02. In particular, MPEP requires that the Office must shown that the alleged inventions are distinct and unrelated, such as by separate classification, separate status in the art, or a different field of search. None of these requirements were met; indeed, the alleged inventions all reside in the same field of search, same status in the art and same classification.

Applicant respectfully submits that the restriction requirement is improper, and respectfully requests that it be withdrawn. The several species claimed are related, but distinct. MPEP 803 requires that in order to make a proper restriction as between patentably distinct inventions, the claimed inventions must be independent or distinct and there must be a serious burden on the Examiner if restriction is not required.

If the search and examination of an entire application can be made without serious burden, the examiner *must* examine it on its merits, even though it includes claims to independent or distinct inventions. See, MPEP 803. The first criteria is met, but the second is not.

Applicants respectfully submit that the restriction requirement be withdrawn and that favorable action on the merits be taken with respect to all of the claims in the instant application. Should the Examiner have any questions concerning the above, or believe that issues remain in the case, Applicants respectfully request the Examiner to contact their undersigned counsel, who may be reached by telephone to 513.248.6208.

Respectfully submitted,

Stanley L. Fry, Applicant

Date: 03 January 2006



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Application No. 10/672,428
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CERTIFICATE OF TRANSMISSION UNDER 37. C.F.R. 1.8

The undersigned certifies that a true and accurate copy of this "Response to Restriction Requirement" is being transmitted to the Honorable Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450, by facsimile transmission to the above-stated facsimile number, on this the 3d day of January, 2006.


Jane A. Tomlinson